

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9

SDMS# 31245

In the Matter of)
Gerald D. Petery)
Mary Ann Petery Schuessler)
Selma Leasing Company, Inc.)

ORDER

Respondents)

Docket No. 85-01

PROCEEDING UNDER SECTION 106)
OF THE COMPREHENSIVE ENVIRON-)
MENTAL RESPONSE, COMPENSATION,)
AND LIABILITY ACT OF 1980)
(42 USC §9606))

JURISDICTION

The following order is issued on this date to Gerald D. Petery, Mary Ann Petery Schuessler, and Selma Leasing Company, Inc. (Respondents), pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by §106 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, 42 USC §9606, and redelegated to the Director, Toxics and Waste Management Division, EPA Region 9.

FINDINGS OF FACT

BACKGROUND

1. Gerald D. Petery is owner and President of Selma Leasing Company, a Corporation. Mr. Petery has maintained ownership of Selma Leasing Company (SLC) since approximately 1965. He is also a previous owner and operator of the Selma Pressure Treating Company, a Corporation. He was owner, Corporate President and Manager of Selma Pressure

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- 1 Treating Company from approximately 1965 to 1977. He is
2 also an owner of land on which SPTC operated (Assessor's
3 Parcel Nos. 390-110-64 and 65, Fresno County, California).
- 4 2. Mary Ann Petery Schuessler is the former wife of Gerald D.
5 Petery, and was a stockholder of the Selma Pressure Treating
6 Company prior to purchasing the company in December, 1977.
7 At that time, she became Corporate President, a position
8 she fulfilled until approximately 1981, when the company
9 underwent bankruptcy proceedings and was sold.
- 10 3. Selma Leasing Company, Inc. (SLC), which is owned by Gerald
11 D. Petery, also owns property on which Selma Pressure Treat-
12 ing Company once operated (Assessor's Parcel Nos. 390-110-
13 57 and 59, Fresno County, California). From 1982 until
14 the present, this property has been occupied by Sawmills
15 Properties, Inc., which operates a wood treating facility
16 on the premises.
- 17 4. Selma Pressure Treating Company, Inc. (SPTC) was a wood
18 treating plant which treated lumber products with a
19 variety of wood preserving chemicals. The land on which
20 SPTC operated is located approximately 1/2 mile southeast
21 of the City of Selma, California at the intersection of
22 Dockery Avenue and Highway 99. SPTC operated at this
23 site (under this and other names) from approximately
24 1939 until 1981, when the company was declared bankrupt.
- 25 5. On August 14 and November 19, 1980, SPTC notified EPA, pur-
26 suant to §3010 of the Resource Conservation and Recovery Act
27 (RCRA), 42 USC §6930, that it generated and stored hazardous

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1 wastes on site. Wastes generated and stored at the
2 facility included sludges from wood preserving processes
3 utilizing pentachlorophenol (PCP), and arsenic and chromium.
4 These materials are listed hazardous wastes under 40 CFR
5 §261.24 and 261.32, and are therefore hazardous substances
6 as defined by §101(14)(c) of CERCLA, 42 USC §6921.

7 6. From January 12 to January 14, 1981, the U.S. Environmental
8 Protection Agency conducted a joint inspection of SPTC with
9 the California Department of Health Services (DOHS) and the
10 Central Valley Regional Water Quality Control Board (RWQCB),
11 under the authority of §3007 of RCRA. During this inspec-
12 tion, EPA personnel noted spilled, oily material in various
13 locations throughout the property. EPA and SPTC personnel
14 discussed historic waste disposal practices used by SPTC
15 throughout its years of operation. Though locations of
16 previous disposals and discharges were not confirmed at
17 the time of the inspection, possible locations of an old
18 surface impoundment, drainage ditches and dry wells were
19 discussed. As a result of this inspection, on February
20 23, 1981 EPA requested further information from SPTC
21 concerning waste generation and disposal practices, under
22 the authority of §3007 of RCRA.

23 7. Information submitted to EPA by SPTC in compliance with EPA's
24 February 23 request includes a letter dated May 1, 1981.
25 This letter identifies the chemicals used by SPTC in its
26 treating processes, including PCP, chromated copper arsenic
27 compounds containing hexavalent chromium and arsenic pent-

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1 oxide, dinitrophenol, and salts of chromium, arsenic and
2 fluorides.

3 A subsequent letter from SPTC to EPA dated May 21, 1981
4 provides a chronology of waste management activities at the
5 site from 1965 through 1981. This letter describes areas of
6 the site which have contained wastes from SPTC's operations,
7 including an effluent pond, an overflow lagoon, and a sludge
8 collection pit. The May 21 letter also identifies several
9 dry wells which are present on site, as well as various
10 drains which are connected to two pipelines. These pipe-
11 lines carried liquids from SPTC to areas offsite, where the
12 liquids were discharged. One of these pipelines runs
13 south from SPTC along Dockery Avenue, discharging at the
14 intersection of Dockery and Highway 99 ("Outfall 1").
15 Soil samples collected by EPA and the California Department
16 of Health Services from this discharge point have been
17 shown to contain elevated concentrations of various hazardous
18 substances used at SPTC (PCP, chromium, and arsenic).
19 The May 21 letter also describes a second pipeline which
20 transported effluent westward from SPTC for eventual
21 discharge at Highway 99 ("Outfall 2"). Samples collected
22 at this discharge point also show contamination with the
23 hazardous substances used by SPTC. Discharge from
24 Outfall 2 flowed along the side of Highway 99, resulting
25 in complaints from CALTRANS. Samples collected from
26 this unlined runoff area also show contamination with
27 the hazardous substances used at SPTC.

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- 1 8. On June 5, 1981, the RWQCB notified SPTC that past disposal
2 practices by SPTC threatened to create a condition of ground
3 water pollution, and the RWQCB requested SPTC to submit a
4 proposal to determine the extent of contamination. On the
5 same date, the DOHS notified SPTC that hazardous levels of
6 arsenic, chromium, copper and pentachlorophenol had been
7 detected in soil samples collected from the premises of SPTC.
8 DOHS also required SPTC to submit a proposal for characteri-
9 zing the contamination present at the facility.
- 10 9. On September 4, 1981, the RWQCB issued a Cleanup and Abatement
11 Order to SPTC, SLC and Gerald Petery requiring the recipients
12 to determine the extent of soil and groundwater contamination
13 present on the SPTC site. It also required them to recommend
14 and implement remedial measures to correct the problem.
- 15 10. On September 24, 1981, SPTC informed the RWQCB that it was
16 unable to comply with the Order because SPTC had filed for
17 bankruptcy. However, on October 9, 1981, attorneys for SLC
18 stated that SLC would accept responsibility for perform-
19 ing the necessary investigations.
- 20 11. From February 14 to 17, 1982, EPA performed a limited in-
21 vestigation of the SPTC site and vicinity to verify the pre-
22 sence of soil contamination and to determine if groundwater
23 contamination had occurred. The results of this investiga-
24 tion, summarized in the sampling section below, confirmed
25 contamination of both soils and underlying groundwater with
26 chemicals used by SPTC. Concentrations of chromium detected
27 in underlying ground water were found to exceed EPA's Max-

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1 imum Contaminant Level for that metal (.05 mg/l).

2 12. In November, 1982, SLC initiated a limited investigation
3 of soils and ground water, to complement the investigation
4 performed by EPA in February. A report of the findings of
5 SLC's investigation was submitted to regulatory agencies
6 in July, 1983. This report also confirmed the presence of
7 chemicals used by SPTC in both soils and ground waters.
8 Chromium detected in ground water exceeded EPA's Maximum
9 Contaminant Level for that metal.

10 13. Following receipt of SLC's preliminary investigation report
11 in July, 1983, the RWQCB (with the support of DOHS and EPA)
12 required further investigations to complete characteriza-
13 tion of this problem, and remedial action to correct the
14 problem. However, as of the date of this order, no further
15 investigations have been conducted, and no remedies proposed.
16 14. In September, 1983, SPTC was placed on EPA's National Priori-
17 ties List of hazardous waste sites.

18 SUMMARY OF RECENT SAMPLING PERFORMED AT SPTC

19 15. On March 10, 1981, the California DOHS collected six surface
20 soil samples from SPTC and from the vineyard south of the
21 plant. A single sample of standing water from the SPTC stor-
22 age area was also collected. A laboratory report from the
23 State's Hazardous Materials Laboratory dated March 26, 1981
24 indicates the following analytic results:

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Maximum Detected Concentration (ppm)

	<u>PCP</u>	<u>Arsenic</u>	<u>Chromium</u>	<u>Copper</u>
SPTC soils	584	38,636	10,100	675
Vineyard soils	.2	8.6	--	**
Standing water	17.3	.6	--	**

(-- indicates nondetected at detection limits of instrument)
 (** indicates not determined)

16. On May 15, 1981, the California DOHS collected seven additional soil samples at depths ranging from six inches to five feet. Samples were collected at the discharge point of an irrigation pipeline leading from SPTC to the intersection of Dockery Avenue and Highway 99 (Outfall 1), at the discharge point of a pipeline designed to carry effluent from SPTC to Highway 99 (Outfall 2), and from soils adjacent to Highway 99, where discharge from Outfall 2 flowed. A laboratory report from the State Hazardous Materials Laboratory dated July 17, 1981 states the following results:

Maximum Detected Concentrations (ppm)

	<u>PCP</u>	<u>Arsenic</u>	<u>Chromium</u>	<u>Copper</u>
<u>Outfall 1</u>				
6"	2500	1340	1070	890
1'	48.5	40	25	17
<u>Outfall 2</u>				
1'	4500	9800	3950	5300
5'	3100	138	91	30
<u>Highway 99</u>				
6"	3550	790	1440	54
1'	530	154	38	34
4'	335	64	35	11

17. On February 14 to 17, 1982, EPA, California DOHS and the RWQCB conducted a joint investigation of soils and groundwater in the immediate vicinity of SPTC. Soil

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samples were collected at varying depths from fifteen sample locations on the SPTC property and at Outfall 1, Outfall 2, and along Highway 99. In addition, five monitoring wells were installed, and groundwater samples were collected from each. A draft report of this investigation shows that elevated concentrations of PCP, arsenic, chromium and copper were detected in most surface samples. Several samples (notably those taken at Outfalls 1 and 2 and along the Highway) also showed significant contamination at the maximum sampling depth of 3 to 5 feet. In addition, well sampling shows the presence of contaminants in groundwater, particularly downgradient of the SPTC property. In two of the five wells, chromium was detected in excess of EPA's Maximum Contaminant Level for that metal (.05 mg/l). A summary of these results are presented below:

<u>Maximum Detected Concentration (ppm)</u>					
	<u>PCP</u>	<u>Arsenic</u>	<u>Chromium</u>	<u>Copper</u>	<u>Methylene Chloride</u>
<u>Outfall 1</u>					
surface	9.7	8.8	360	160	**
3 to 3.5'	1400	140	120	8	**
<u>Outfall 2</u>					
surface	3	3240	600	220	**
3'	<.83	10	50	60	**
<u>Highway</u>					
surface	56.5	840	91	240	**
3'	<.83	110	30	9	**
<u>SPTC Soil</u>					
surface	2518	5600	7600	2700	**
2 to 3'	183	310	170	80	**
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	<u>Maximum Detected Concentration (mg/l)</u>					<u>Methylene Chloride</u>
	<u>PCP</u>	<u>Arsenic</u>	<u>Chromium</u>	<u>Copper</u>		
Wells	<.02	.05	8.8	1.69		.04

(** indicates not determined)

18. In July, 1983, Selma Leasing Company submitted a report of an investigation conducted by its consultants, Brown and Caldwell, in response to the RWQCB's September 4, 1981 Cleanup and Abatement Order. This study was designed to complement EPA's 1982 investigation. Soils were collected from fifteen locations at depths to ten feet. Five monitoring wells were installed and sampled, in addition to the five wells previously installed by EPA. The results of this study confirmed the presence of elevated concentrations of contaminants in surface soils throughout the plant, as well as in samples collected at depths of 3.5 to 4 feet. Insufficient sampling was conducted at deeper locations to fully determine the depth of these contaminants in soil. As in EPA's investigation, several well samples exhibited concentrations of chromium in excess of EPA's Maximum Contaminant Level for that metal (.05 mg/l). A summary of the results of this study is provided below:

	<u>Maximum Detected Concentration (ppm)</u>			
	<u>PCP</u>	<u>Arsenic</u>	<u>Chromium</u>	<u>Copper</u>
<u>Soils</u>				
0-12"	780	780	816	540
3-4"	900	42	11	14
	<u>Maximum Detected Concentration (mg/l)</u>			
	<u>PCP</u>	<u>Arsenic</u>	<u>Chromium</u>	<u>Copper</u>
Wells	<.05	<.026	4.8	<.12

- 1 19. Pentachlorophenol (PCP) has been demonstrated to be toxic
2 to aquatic organisms, mammals and humans. Exposure to PCP
3 can result in irritation of the skin, eyes, nasal and res-
4 piratory tracts, chloracne, general weakness, dizziness,
5 headache, anorexia, abdominal pain and vomiting. Acute
6 exposure to high concentrations can be fatal.
- 7 20. Arsenic exposure has been linked to increased incidence
8 of human lung and skin cancer. Chronic arsenic exposure
9 can produce malaise, fatigue, changes in skin pigmentation,
10 gastrointestinal disturbance, and liver damage. Acute ex-
11 posures to high concentrations can be fatal. The EPA Maxi-
12 mum Contaminant Level for arsenic in drinking water is .05
13 milligrams per liter.
- 14 21. Chromium exists in the environment in several valence states,
15 the most prevalent of which are the trivalent and hexavalent
16 forms. Hexavalent chromium is considered more toxic than
17 trivalent. Both of these forms have been detected at SPTC,
18 with the hexavalent form appearing frequently in ground
19 water samples. Exposure to chromium compounds has been
20 linked to an increased incidence of lung cancer and
21 other forms of cancer. Chronic exposure can also result
22 in irritation of the skin and respiratory tracts. Exposure
23 to high concentrations of chromium can cause renal damage.
24 The EPA Maximum Contaminant Level for chromium is .05 mil-
25 ligrams per liter.
- 26 22. The EPA Maximum Contaminant Levels (MCLs), also known as
27 the Primary Drinking Water Regulations, are the Federally
28 enforceable drinking water standards set by the Office of

1 Drinking Water under the authority of the Safe Drinking
2 Water Act.

3 23. Contaminated soils resulting from SPTC's operations are
4 present both on and off site, and are easily accessible
5 to direct contact by humans and wildlife. In addition,
6 these contaminated soils are situated in a ground water
7 recharge zone and overlie a sole source aquifer serving
8 the Selma population (more than 11,000 persons). Hazardous
9 substances used by SPTC have already been detected in
10 shallow zones of this aquifer. In the case of chromium,
11 contamination has been detected in this aquifer in con-
12 centrations more than 100 times the EPA-established
13 Maximum Contaminant Level for chromium in drinking water
14 (.05 milligrams per liter). Therefore, actual releases
15 of hazardous substances from SPTC, and threatened future
16 releases from contaminants present in land once occupied
17 by SPTC, may present an imminent and substantial endanger-
18 ment to public health or welfare or the environment.

19 DETERMINATION

20 On the basis of the information recited above and all other
21 information available, EPA has determined that hazardous sub-
22 stances were disposed of at the site and are present at the
23 site. Therefore, the site is a "facility" as defined by §101
24 of CERCLA.

25 EPA has further determined that hazardous wastes have been
26 released from the facility and may present an imminent and
27 substantial endangerment to public health or welfare or the

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1 environment, and a response is warranted.

2 EPA has further determined that Respondents are the current
3 owners of the facility as well as previous owners and/or operators
4 of the company which caused the existing release of hazardous
5 substances. Respondents are therefore responsible for conduct-
6 ing the actions ordered herein, which are necessary to protect
7 human health and the environment.

8 ORDER

9 Based upon the foregoing Determinations and Findings of Fact,
10 Respondents, Gerald D. Petery, Mary Ann Petery Schuessler,
11 and Selma Leasing Company, Inc. are hereby Ordered pursuant
12 to §106 of CERCLA, 42 U.S.C. §9606, to submit to EPA a proposal
13 (the Proposal), to monitor, test, analyze and report with
14 respect to the presence at or release of hazardous waste
15 from the SPTC site, and shall implement such proposal, once
16 approved by EPA. The purpose of this Proposal and its
17 implementation is to ascertain the nature and extent of the
18 hazard to human health or the environment presented by the
19 disposal or release of the hazardous waste described in the
20 Findings of Fact. The Proposal, to be submitted by Respondents,
21 shall include, but shall not be limited to:

22 1. A plan to compile and collect data to determine the
23 physical and hydraulic characteristics of the aquifer(s)
24 within the area, including but not limited to:

- 25 a. lithology;
26 b. stratigraphy;
27 c. transmissivities;

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- 1 d. storativities;
- 2 e. hydraulic heads;
- 3 f. saturated thicknesses;
- 4 g. porosities;
- 5 h. geologic descriptions;
- 6 i. flow velocities;
- 7 j. hydraulic gradients in the underlying aquifer(s);
- 8 k. current and historic pumpage amounts and locations;
- 9 l. current and historic recharge sources, amounts and
- 10 locations;
- 11 m. groundwater quality - organic and inorganic.
- 12 2. A plan to prepare and submit technical reports that:
 - 13 a. describe the hydrogeology of the site and the affected
 - 14 surrounding area, sufficient to characterize the areal
 - 15 and vertical extent of contamination of the underlying
 - 16 aquifer(s);
 - 17 b. determine the possible mechanisms of contaminant trans-
 - 18 port between aquifers, as appropriate;
 - 19 c. determine the past and present groundwater flow directions
 - 20 in the underlying aquifer(s);
 - 21 d. determine the recharge and discharge amounts and locations
 - 22 for the shallow and/or deep aquifer(s), as appropriate.
- 23 3. A plan to determine the surface hydrology of the site
- 24 and any potential for migration of contaminants off-site
- 25 via surface water.
- 26 4. A plan to determine the vertical and areal distribution
- 27 of contaminants in soils at and near the site.

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- 1 5. A plan specifying analytical and quality control protocols
2 for measurement, monitoring, testing, sampling and
3 analysis, including:
 - 4 a. sample collection methods;
 - 5 b. sample preservation techniques;
 - 6 c. adequate sample identification;
 - 7 e. chain of custody procedures;
 - 8 f. use of EPA approved analytical methods;
 - 9 g. identification of person(s) conducting the sampling and
10 analyses.
- 11 6. A plan specifying the precautions which will be taken
12 to ensure the health and welfare of individuals associated
13 with this project.
- 14 7. Respondent shall make available to EPA upon request a split
15 or duplicate of all samples taken pursuant to this Order.
16 Identification and maintenance of all split samples shall
17 be in accordance with the protocols specified in Paragraph
18 5 of this Order.
- 19 8. It is the responsibility of Respondents to obtain the access
20 to and use of any on or off-site areas. Respondents shall
21 assume full responsibility for any claims arising from the
22 activities conducted by Respondents or their representatives
23 or consultants on third-party property in connection with
24 this Order. Respondents will provide access to the site for
25 EPA and its authorized representatives at all reasonable
26 times for the purpose of verifying compliance with the
27 provisions of this Order, and will permit such persons to
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1 be present and move freely in the area where any work is
2 being conducted pursuant to this Order.

3 9. All data, unless otherwise exempted by EPA, shall be reported
4 to EPA in a timely manner, and shall be in a format to
5 be specified by EPA. Detection limits are to be specified
6 per EPA manual SW 846, entitled Test Methods for Evaluating
7 Solid Waste, where applicable.

8 10. Neither the United States Government nor any agency
9 thereof shall be liable for any injuries or damages to persons
10 or property resulting from acts or omissions of Gerald
11 D. Petery, Mary Ann Petery Schuessler, or Selma Leasing
12 Company, Inc., their officers, directors, employees,
13 agents, receivers, trustees, successors, or assigns, or
14 of any persons, including but not limited to firms,
15 corporations, subsidiaries, contractors or consultants,
16 in carrying out activities pursuant to this Order, nor
17 shall the United States Government or any agency thereof
18 be held out as a party to any contract entered into by
19 Respondents in carrying out activities pursuant to this
20 Order.

21 The Proposal ordered herein must be submitted by Respondents
22 to Julie K. Anderson, Environmental Protection Agency, at the
23 address listed below, within fifteen (15) calendar days of the
24 effective date of this Order. The Proposal shall be subject
25 to review, modification and approval by EPA. The Proposal,
26 once approved by EPA, shall become a part of this Order.

27 The Proposal shall specify an expeditious and reasonable

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1 schedule for implementation and completion of the various com-
2 ponents. The Proposal shall provide for periodic reports to
3 EPA in a timely manner on the progress of the work required
4 by the Order.

5 Respondents shall submit to EPA a written report describing
6 the data collected and findings made within ninety (90) days after
7 Respondents' receipt of EPA approval of the Proposal. Respondents
8 shall immediately forward all data to EPA upon Respondents'
9 receipt of data.

10 Based upon the data generated by the sampling and analysis
11 program, EPA may order additional sampling, analysis, reporting
12 and monitoring to fully ascertain the nature and extent of the
13 hazard.

14 EFFECTIVE DATE--OPPORTUNITY TO CONFER

15 Except as otherwise provided below, this Order is effective
16 immediately upon the date of receipt by Respondents. All times
17 for performance of response activities shall be calculated from
18 that date.

19 Under the provisions of CERCLA, Respondents may request
20 a conference to be held within seven (7) calendar days after
21 receipt of this Order to discuss its applicability, the cor-
22 rectness of factual determinations upon which the Order is
23 based, the appropriateness of any action which Respondents
24 are hereby ordered to take, and any other relevant and mate-
25 rial issues. If Respondents request a conference, the Order
26 will not become effective until the expiration of the said
27 seven day period.

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1 It is so ordered on this 4 day of March, 1985.

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3 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

4
5 By: Harry Seraydarian

6 HARRY SERAYDARIAN
7 DIRECTOR, TOXICS AND WASTE MANAGEMENT DIVISION

8 Contact Person:

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